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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/062,437

02/05/2002

Narutoshi Hayashi

Q68365

2621

23373

7590

12/20/2002

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037

EXAMINER

JUBA JR, JOHN


ART UNIT

PAPER NUMBER

2872

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/062,437	Applicant(s) HAYASHI, ET AL.	
	Examiner John Juba	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 12/1, 13/12/1, and 14/12/1 is/are rejected.
- 7) ☒ Claim(s) 6-11, 12/8, 12/9, 13/12/8, 13/12/9, 14/12/8, and 14/12/9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

~~Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which~~
papers have been placed of record in the file.

Specification

The abstract of the disclosure is objected to because such language as "the present invention provides" is considered extraneous and should be deleted. Also, such claim terminology as "comprising" (line 2) should be avoided. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 5, 12/1, 13/12/1, and 14/12/1 are rejected under 35 U.S.C. 102(b) as being anticipated by SUMITOMO CHEMICAL (WO 96/07941 A1). SUMITOMO CHEMICAL disclose a polarizing plate comprising a polarizing layer having a thickness of 1 – 5000 nm (Pg. 3, line 4), and comprising a dye having a tabular molecular structure (e.g., perylene; Table 2-4 (VI)), the molecules being oriented to polarize light passing therethrough. Thus, SUMITOMO CHEMICAL disclose every positively recited structural element. The recitation of the manner in which the polarizing layer is formed

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is regarded only as requiring the layer to be a dried, oriented layer of molecules having a tabular molecular structure. That is, the manner in which the layer is made, is not germane to the patentability of the layer itself:

“Process limitations cannot impart patentability to product claim where product is not patentably distinguished over prior art.” *In re Dike*, 157 USPQ 581 (CCPA 1968).

It is well-settled that the “[p]resence of process limitations in product claims, which product does not otherwise patentably distinguish over prior art, cannot impart patentability to that product.” *In re Stephens*, 345 F.2d 1020 (CCPA 1965), 145 USPQ 565, citing *Dilnot*. Further, SUMITOMO CHEMICAL disclose solution coating and drying on a rubbed substrate (see “Preparation Methods”, Pg. 25), and disclose that some of the solutions may be aqueous.

With regard to claim 4, SUMITOMO CHEMICAL disclose the same type of dye and alignment method. Accordingly, the examiner has reasonable belief that the recited orientation perpendicular to the rubbing direction is an inherent characteristic of the prior art.

With regard to claim 5, SUMITOMO CHEMICAL disclose that the layer can be on another alignment layer, the other alignment layer comprising polyester (Pg. 28, lines 24 – 28).

Allowable Subject Matter

Claims 6 – 11, 12/8, 12/9, 13/12/8, 13/12/9, 14/12/8, and 14/12/9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art, taken alone or in combination, fails to teach or to fairly suggest, *in combination*,

the use of cellulose resin film as the rubbed substrate, as recited in claim 6;

the use of a norbornene resin film as the rubbed substrate, as recited in claim 7;

or

the further inclusion of a reflecting layer, as variously recited in claims 8 – 11.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Khan, et al were cited in Applicants' specification as disclosing dichroic polarizers comprising a dye having a tabular molecular shape.

Ichimura, et al disclose dichroic polarizers made by depositing a dye on a substrate subjected to an optical alignment by actinic exposure.

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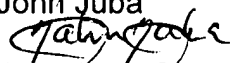
NIPPON KAYAKU CO (JP 03-054506 A) were cited in Applicants' specification as disclosing polarizers made by depositing dyes having a rod-like molecular shape on a substrate subjected to a rubbing treatment.

NIPPON KAYAKU CO (JP 03-058004 A) disclose polarizers made by depositing dyes on a substrate subjected to a rubbing treatment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Juba whose telephone number is (703) 308-4812. The examiner can normally be reached on Mon.-Fri. 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on Mon.- Thu., 9 - 5. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

John Juba

Examiner, GAU 2872

December 13, 2002